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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,509	12/07/2005	Klaus Schultes	272983US0PCT	4808
22850	7590	07/16/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER LE, HOA T	
			ART UNIT 1794	PAPER NUMBER
			NOTIFICATION DATE 07/16/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/539,509	Applicant(s) SCHULTES ET AL.	
	Examiner H. T. Le	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>Aug'05, June'06, Mar'08, Jul'08</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 1-10 in the reply filed on April 28, 2008 is acknowledged. The traversal is on the ground(s) that "the Examiner has not provided sufficient indication that the contents of the claims *interpreted in light of the description* was considered *as a whole* in making the assertion that the groups are distinct." This is not found persuasive because Applicant did not state a support for such allegation. The lack of unity was provided in the restriction requirement; that is, the common feature between the elected claims 1-10 and the non-elected claim 11 is the core-shell particle; however, such core-shell particle is not inventive as it has been taught in the prior art references (See International Search Report provided by Applicant and the prior-art rejection herein). Applicant further argued that claim 11 is a process of using the product of claims 1-10. A molding composition is a product, not a process. The molding composition can be formed by using materials other than the core-shell particle as well. Therefore, this argument is not germane to the issue at hand. Accordingly, the requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fraser et al (US 6,172,135 or WO96/37531).

Fraser teaches a core-shell particle comprising a core of (meth)acrylate repeat unit and a first shell of low glass transition temperature ("T_g"). The first shell comprises up to 25wt% of styrenic monomer and 75-100 wt% of an (meth)acrylic monomer. The second shell if present comprises a second (meth)acrylic polymer. The T_g of the first shell is below 30°C. See paragraph bridging columns 2 and 3. Formula (1) is a basic styrenic monomer which is envisioned and encompassed by Fraser's teaching. In the alternative, one of ordinary skill in the art would have found it obvious to utilize the styrenic monomer because based on Fraser's teaching, it is considered chemically and functionally equivalent to all other styrenic monomers.

Claim 2: The proportions of the components are taught by Fraser. See col. 2, line 60 to col. 4, line 21. In the alternative, the proportions of components would have been obvious through routine experimentation or depending on the end use of the particles to arrive at the range as claimed..

Claim 3: Crosslinker is taught at col. 3, lines 33-34 and 59-50; and col. 4, lines 20-21 in an amount from 0.5 to 1 wt%. With regard to the proportions of other components, it

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would have been obvious through routine experimentation or depending on the end use of the particles to arrive at the range as claimed.

Claim 4: See col. 4, line 64 to col. 5, line 4.

Claims 5-7: Crosslinker is taught at col. 3, lines 33-34 and 59-50; and col. 4, lines 20-21 in an amount from 0.5 to 1 wt%.

Claim 8: See col. 4, lines 54-57.

Claim 9: Second shell comprises the same material as the core (col. 3, lines 29-31); therefore, it's expected to have the same Tg as the core (col. 4, lines 54-57).

Claim 10: See col. 6, lines 53-55. The emulsion polymerization is multistage (See col. 7, lines 1-33).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511.

The examiner can normally be reached on 9:30 a.m. to 6:00 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. Thi Le/

H. (Holly) T. Le
Primary Examiner
Art Unit 1794

June 22, 2008